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AMENDED IN ASSEMBLY JUNE 11, 2009
AMENDED IN SENATE APRIL 23, 2009

SENATE BILL

No. 722

Introduced by Senators Simitian, Kehoe, and Steinberg

February 27, 2009

An act to add Section 705 to the Fish and Game Code, to amend Sections 25740, 25740.5, 25741, 25742, 25746, 25747, and 25751 of the Public Resources Code, and to amend Sections 399.2.5, 399.11, 399.12, 399.17, and 454.5 of, to amend and renumber Section 399.16 of, to amend, renumber, and add Section 399.13 of, to add Sections 399.16, 399.18, 399.26, 399.30, 399.31, and 1005.1 to, to add Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of, to repeal Section 387 of, and to repeal and add Sections 399.14 and 399.15 of, the Public Utilities Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, Simitian. Utilities: renewable energy resources.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, as defined. Existing law requires the PUC to require the state's 3 largest electrical corporations, Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison, to identify a separate electrical rate component to fund programs that

enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing PUC resolutions refer to the nonbypassable rate component as a “public goods charge.” The public goods charge moneys are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources.

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law establishes the Renewable Resource Trust Fund as a fund that is continuously appropriated, with certain exceptions for administrative expenses, in the State Treasury and requires that certain moneys collected to support renewable energy resources through the public goods charge are deposited into the fund and authorizes the Energy Commission to expend the moneys pursuant to the Renewable Energy Resources Program. The program states the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year so that amount equals at least 20% of total retail sales of electricity in California per year by December 31, 2010.

This bill would revise the Renewable Energy Resources Program to state the intent of the Legislature to increase the amount of electricity generated from eligible renewable energy resources per year, so that amount equals at least 33% of total retail sales of electricity in California per year by December 31, 2020. The bill would revise certain terms used in the program and revise certain eligibility criteria for a renewable electrical generation facility, as defined, pursuant to the program.

(2) Existing law expresses the intent of the Legislature, in establishing the California Renewables Portfolio Standard Program (RPS program), to increase the amount of electricity generated per year from eligible renewable energy resources, as defined, to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The RPS program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar

year. The RPS program requires the PUC to implement annual procurement targets for each retail seller to increase its total procurement of electricity generated by eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales of electricity are procured from eligible renewable energy resources no later than December 31, 2010. Existing law requires the PUC to make a determination of the existing market cost for electricity, which PUC decisions call the market price referent, and to limit an electrical corporation's obligation to procure electricity from eligible renewable energy resources, that exceeds the market price referent, by a specified amount.

This bill would express the intent that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020. ~~The bill would require that a retail seller procure the following percentages of electricity from eligible renewable energy resources by the following dates: (A) Until December 31, 2012, the same percentage as actually achieved by the retail seller during 2009; (B) 20% by December 31, 2013; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020. The bill would require the PUC, by January 1, 2012, to establish the quantity of electricity generated by eligible renewable energy resources to be procured by each retail seller for specified compliance periods, sufficient to ensure that the procurement of electricity generated by eligible renewable energy resources achieves 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and that retail sellers procure not less than 33% of retail sales in all subsequent years. The bill, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, would require that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified.~~ The bill would authorize the PUC to permit a retail seller to delay compliance with ~~(B) or (C)~~ procurement levels when specified circumstances are present, but would not authorize the PUC to permit a retail seller to delay compliance with the ~~(D)~~ procurement level *a renewables portfolio standard procurement requirement if the PUC finds that the retail seller has demonstrated that certain conditions exist that are beyond the control of the retail seller.* The bill would require the PUC to direct each electrical

corporation to annually prepare a renewable energy procurement plan containing specified matter and require, to the extent feasible, that the plan be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The bill would require the commission to direct all retail sellers to prepare and submit an annual compliance report. The bill would delete the existing market price referent provisions and instead ~~require~~ *authorize* the PUC to establish a ~~methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of, and reflecting, certain matters.~~ The bill would require the PUC to establish a limitation on the annual expenditures made above the market price, ~~by an electrical corporation, in order to achieve the procurement levels established by the PUC.~~ The bill would require the PUC to permit an electrical corporation to limit its procurement of electricity from eligible renewable energy resources to that quantity that can be procured at or below the market prices established by the PUC, ~~up to the limitation for each electrical corporation on the procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard.~~ The bill would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers. The bill would revise the definitions of certain terms for purposes of the RPS program. The bill would authorize an electrical corporation to apply to the PUC for approval to construct, own, and operate an eligible renewable energy resource and require the PUC to approve the application if certain conditions are met, until corporation owned and operated resources provide ~~8.5%~~ 8.25% of the corporation's anticipated retail sales.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because the provisions of this bill are within the act and require action by the PUC to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard for the utility that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

This bill would repeal this provision and instead make certain of the requirements of the RPS program, as discussed below, applicable to local publicly owned electric utilities. By placing additional requirements upon local publicly owned electric utilities, the bill would impose a state-mandated local program.

(4) Existing law requires the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers, and to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined.

This bill would require the Energy Commission to design and implement an accounting system to verify compliance with the RPS requirements by retail sellers and local publicly owned electric utilities. The bill would require the Energy Commission, among other things, to adopt regulations specifying procedures for enforcement of the RPS requirements that include a public process under which the Energy Commission is authorized to issue a notice of violation and correction with respect to a local publicly owned electric utility and for referral to the State Air Resources Board for penalties imposed pursuant to the California Global Warming Solutions Act of 2006. The bill would require a local publicly owned electric utility to procure the ~~same percentages of electricity from eligible renewable energy resources as retail sellers are required to procure~~ *following percentages of electricity from eligible renewable energy resources by the following dates: (A) until December 31, 2012, the same percentage as actually achieved by the utility during 2009; (B) 20% by December 31, 2013; (C) 25% by December 31, 2016; and (D) 33% by December 31, 2020.* The bill would provide that the local publicly owned electric utility retains discretion with respect to certain matters in complying with the RPS, would require that certain notices be given by the utility when adopting and periodically revising its procurement plan, and would require the utility to report certain information relative to RPS compliance to the Energy Commission and its customers.

(5) Existing law requires the PUC to prepare and submit to the Governor and the Legislature a written report annually before February 1 of each year on the costs of programs and activities conducted by an electrical corporation or gas corporation that have more than a specified number of customers in California.

This bill would require the PUC to prepare and submit to the policy and fiscal committees of the Legislature, annually before February 1

of each year, a report on (A) all electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, (B) all cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard, (C) all costs incurred by electrical corporations for incentives for distributed and renewable generation, (D) all cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed generation and renewable generation, (E) specified costs for which an electrical corporation is seeking recovery in rates that are pending determination or approval by the PUC, (F) the decision number of each PUC decision in the prior year authorizing an electrical corporation to recover costs incurred in rates, and (G) any changes in the prior year in load serviced by an electrical corporation.

(6) The bill would require the Energy Commission, by July 1, 2011, to update previously conducted studies relating to determining the effective load carrying capacity of wind and solar energy resources on the electrical grid. The bill would require the PUC to use those values in establishing the contribution of those resources toward meeting specified resource adequacy requirements.

(7) The Public Utilities Act prohibits any electrical corporation from beginning the construction of, among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the PUC a certificate that the present or future public convenience and necessity require or will require that construction, termed a certificate of public convenience and necessity. Existing law requires the PUC, in acting upon an application by an electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS program. Existing law requires the PUC, upon finding that new transmission facilities are necessary to facilitate achievement of the renewable power goals established under the RPS, to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission (FERC) are fully reflected in any retail rates established by the PUC.

This bill would require the PUC to issue a decision on an application for a certificate of public convenience and necessity within 18 months of the filing of a completed application under specified circumstances. The bill would require the PUC, in acting upon an application by an

electrical corporation for a certificate of public convenience and necessity, to deem new transmission facilities necessary to the provision of electric service if the PUC finds that new transmission facilities are reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard. The bill would require the PUC to provide assurance of the eligibility for recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of transmission facilities in certain circumstances and to allow recovery in retail rates of any increase in transmission costs if not approved by the Federal Energy Regulatory Commission if the PUC determines the costs were prudently incurred pursuant to a specified law.

(8) Existing law establishes the Department of Fish and Game in the Natural Resources Agency, and generally charges the department with the administration and enforcement of the Fish and Game Code.

This bill would require the department to establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(9) The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO). Existing law requires the ISO to ensure efficient use and reliable operation of the transmission grid consistent with achieving planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the American Electric Reliability Council. Pursuant to existing law, the ISO's tariffs are required to be approved by the FERC.

This bill would require the ISO and other California balancing authorities to work cooperatively to integrate and interconnect eligible renewable energy resources to the transmission grid by the most efficient means possible with the goal of minimizing the impact and cost of new transmission facilities needed to meet both reliability needs and the renewables portfolio standard procurement requirements, and to accomplish this in a manner that respects the ownership, business, and dispatch models for transmission facilities owned by electrical corporations, local publicly owned electric utilities, joint power agencies, and merchant transmission companies.

(10) This bill would appropriate \$322,000 from the Public Utilities Commission Utilities Reimbursement Account to the PUC for additional staffing to identify, review, and approve transmission lines reasonably

necessary or appropriate to facilitate achievement of the renewables portfolio standard.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 705 is added to the Fish and Game Code,
2 to read:

3 705. (a) For purposes of this section, “eligible renewable
4 energy resources” has the same meaning as in the California
5 Renewables Portfolio Standard Program (Article 16 (commencing
6 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
7 Public Utilities Code).

8 (b) The department shall establish an internal division with the
9 primary purpose of performing comprehensive planning and
10 environmental compliance services with priority given to projects
11 involving the building of eligible renewable energy resources.

12 (c) The internal division shall ensure the timely completion of
13 plans pursuant to the Natural Community Conservation Planning
14 Act (Chapter 10 (commencing with Section 2800) of Division 3).

15 SEC. 2. Section 25740 of the Public Resources Code is
16 amended to read:

17 25740. The Legislature finds and declares that the State Air
18 Resources Board has identified a statewide 33 percent renewables
19 portfolio standard as a key measure to comply with the
20 requirements of the California Global Warming Solutions Act of
21 2006. It is the intent of the Legislature in establishing this program,
22 to increase the amount of electricity generated from eligible
23 renewable energy resources per year, so that it equals at least 33
24 percent of total retail sales of electricity in California per year by
25 December 31, 2020.

26 SEC. 3. Section 25740.5 of the Public Resources Code is
27 amended to read:

1 25740.5. (a) The commission shall optimize public investment
2 and ensure that the most cost-effective and efficient investments
3 in renewable energy resources are vigorously pursued.

4 (b) The commission's long-term goal shall be a fully competitive
5 and self-sustaining supply of electricity generated from renewable
6 sources.

7 (c) The program objective shall be to increase, in the near term,
8 the quantity of California's electricity generated by renewable
9 electrical generation facilities located in this state, while protecting
10 system reliability, fostering resource diversity, and obtaining the
11 greatest environmental benefits for California residents.

12 (d) An additional objective of the program shall be to identify
13 and support emerging renewable technologies in distributed
14 generation applications that have the greatest near-term commercial
15 promise and that merit targeted assistance.

16 (e) The Legislature recommends allocations among all of the
17 following:

18 (1) Rebates, buydowns, or equivalent incentives for emerging
19 renewable technologies.

20 (2) Customer education.

21 (3) Production incentives for reducing fuel costs, that are
22 confirmed to the satisfaction of the commission, at solid fuel
23 biomass energy facilities in order to provide demonstrable
24 environmental and public benefits, including improved air quality.

25 (4) Solar thermal generating resources that enhance the
26 environmental value or reliability of the electrical system and that
27 require financial assistance to remain economically viable, as
28 determined by the commission. The commission may require
29 financial disclosure from applicants for purposes of this paragraph.

30 (5) Specified fuel cell technologies, if the commission makes
31 all of the following findings:

32 (A) The specified technologies have similar or better air
33 pollutant characteristics than renewable technologies in the report
34 made pursuant to Section 25748.

35 (B) The specified technologies require financial assistance to
36 become commercially viable by reference to wholesale generation
37 prices.

38 (C) The specified technologies could contribute significantly
39 to the infrastructure development or other innovation required to

1 meet the long-term objective of a self-sustaining, competitive
2 supply of electricity generated from renewable sources.

3 (6) Existing wind-generating resources, if the commission finds
4 that the existing wind-generating resources are a cost-effective
5 source of reliable energy and environmental benefits compared
6 with other renewable electrical generation facilities located in this
7 state, and that the existing wind-generating resources require
8 financial assistance to remain economically viable. The commission
9 may require financial disclosure from applicants for the purposes
10 of this paragraph.

11 (f) Notwithstanding any other provision of law, moneys
12 collected for renewable energy pursuant to Article 15 (commencing
13 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
14 Public Utilities Code shall be transferred to the Renewable
15 Resource Trust Fund. Moneys collected between January 1, 2007,
16 and January 1, 2012, shall be used for the purposes specified in
17 this chapter.

18 SEC. 4. Section 25741 of the Public Resources Code is
19 amended to read:

20 25741. As used in this chapter, the following terms have the
21 following meaning:

22 ~~(a) “Delivered” and “delivery,” have the same meaning as~~
23 ~~defined in Section 399.12 of the Public Utilities Code.~~

24 ~~(b)~~

25 (a) “Procurement entity” means any person or corporation that
26 enters into an agreement with a retail seller to procure eligible
27 renewable energy resources pursuant to subdivision (g) of Section
28 399.13 of the Public Utilities Code.

29 ~~(e)~~

30 (b) “Renewable electrical generation facility” means a facility
31 that meets all of the following criteria:

32 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
33 geothermal, fuel cells using renewable fuels, small hydroelectric
34 generation of 30 megawatts or less, digester gas, municipal solid
35 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
36 current, and any additions or enhancements to the facility using
37 that technology.

38 (2) The facility satisfies one of the following requirements:

1 (A) The facility is located in the state or near the border of the
2 state with the first point of connection to the transmission network
3 of a balancing authority area primarily located within the state.

4 (B) The facility has its first point of interconnection to the
5 transmission network outside the state and satisfies all of the
6 following requirements:

7 (i) It is connected to the transmission network within the
8 Western Electricity Coordinating Council (WECC) service
9 territory.

10 (ii) It commences initial commercial operation after January 1,
11 2010.

12 (iii) It will not cause or contribute to any violation of a California
13 environmental quality standard or requirement.

14 (iv) It participates in the accounting system to verify compliance
15 with the renewables portfolio standard once established by the
16 commission pursuant to subdivision (b) of Section 399.25 of the
17 Public Utilities Code.

18 (C) The facility meets the requirements of clauses (i), (iii), and
19 (iv) of subparagraph (B), but does not meet the requirements of
20 clause (ii) of subparagraph (B) because it commenced initial
21 operation prior to January 1, 2010, if the facility satisfies either of
22 the following requirements:

23 (i) The electricity is from incremental generation resulting from
24 expansion or repowering of the facility.

25 (ii) Electricity generated by the facility was procured by a retail
26 seller or local publicly owned electric utility as of May 31, 2009.

27 (3) Any existing landfill gas facility approved by a publicly
28 owned electric utility prior to September 16, 2009, as a renewable
29 electric generation facility shall continue to qualify as a renewable
30 electric generation facility.

31 (4) If the facility is outside the United States, it is developed
32 and operated in a manner that is as protective of the environment
33 as a similar facility located in the state.

34 ~~(d)~~

35 (c) "Municipal solid waste conversion," as used in subdivision
36 (c), means a technology that uses a noncombustion thermal process
37 to convert solid waste to a clean-burning fuel for the purpose of
38 generating electricity, and that meets all of the following criteria:

39 (A) The technology does not use air or oxygen in the conversion
40 process, except ambient air to maintain temperature control.

1 (B) The technology produces no discharges of air contaminants
2 or emissions, including greenhouse gases as defined in Section
3 38505 of the Health and Safety Code.

4 (C) The technology produces no discharges to surface or
5 groundwaters of the state.

6 (D) The technology produces no hazardous wastes.

7 (E) To the maximum extent feasible, the technology removes
8 all recyclable materials and marketable green waste compostable
9 materials from the solid waste stream prior to the conversion
10 process and the owner or operator of the facility certifies that those
11 materials will be recycled or composted.

12 (F) The facility at which the technology is used is in compliance
13 with all applicable laws, regulations, and ordinances.

14 (G) The technology meets any other conditions established by
15 the commission.

16 (H) The facility certifies that any local agency sending solid
17 waste to the facility diverted at least 30 percent of all solid waste
18 it collects through solid waste reduction, recycling, and
19 composting. For purposes of this paragraph, “local agency” means
20 any city, county, or special district, or subdivision thereof, which
21 is authorized to provide solid waste handling services.

22 ~~(e)~~

23 ~~(d)~~ “Renewable energy public goods charge” means that portion
24 of the nonbypassable system benefits charge required to be
25 collected to fund renewable energy pursuant to the Reliable Electric
26 Service Investments Act (Article 15 (commencing with Section
27 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
28 Code).

29 ~~(f)~~

30 ~~(e)~~ “Report” means the report entitled “Investing in Renewable
31 Electricity Generation in California” (June 2001, Publication
32 Number P500-00-022) submitted to the Governor and the
33 Legislature by the commission.

34 ~~(g)~~

35 ~~(f)~~ “Retail seller” means a “retail seller” as defined in Section
36 399.12 of the Public Utilities Code.

37 SEC. 5. Section 25742 of the Public Resources Code is
38 amended to read:

39 25742. (a) Twenty percent of the funds collected pursuant to
40 the renewable energy public goods charge shall be used for

1 programs that are designed to achieve fully competitive and
2 self-sustaining existing renewable electrical generation facilities
3 located in this state, and to secure for the state the environmental,
4 economic, and reliability benefits that continued operation of those
5 facilities will provide during the 2007–2011 investment cycle.
6 Eligibility for production incentives under this section shall be
7 limited to those technologies found eligible for funds by the
8 commission pursuant to paragraphs (3), (4), and (6) of subdivision
9 (e) of Section 25740.5.

10 (b) Any funds used to support renewable electrical generation
11 facilities located in this state pursuant to this section shall be
12 expended in accordance with the provisions of this chapter.

13 (c) Facilities that are eligible to receive funding pursuant to this
14 section shall be registered in accordance with criteria developed
15 by the commission and those facilities shall not receive payments
16 for any electricity produced that has any of the following
17 characteristics:

18 (1) Is sold at monthly average rates equal to, or greater than,
19 the applicable target price, as determined by the commission.

20 (2) Is used onsite.

21 (d) (1) Existing facilities located in this state generating
22 electricity from biomass energy shall be eligible for funding and
23 otherwise considered a renewable electrical generation facility
24 only if they report to the commission the types and quantities of
25 biomass fuels used.

26 (2) The commission shall report the types and quantities of
27 biomass fuels used by each facility to the Legislature in the reports
28 prepared pursuant to Section 25748.

29 (e) Each existing facility seeking an award pursuant to this
30 section shall be evaluated by the commission to determine the
31 amount of the funds being sought, the cumulative amount of funds
32 the facility has received previously from the commission and other
33 state sources, the value of any past and current federal or state tax
34 credits, the facility's contract price for energy and capacity, the
35 prices received by similar facilities, the market value of the facility,
36 and the likelihood that the award will make the facility competitive
37 and self-sustaining within the 2007–2011 investment cycle. The
38 commission shall use this evaluation to determine the value of an
39 award to the public relative to other renewable energy investment
40 alternatives. The commission shall compile its findings and report

1 them to the Legislature in the reports prepared pursuant to Section
2 25748.

3 SEC. 6. Section 25746 of the Public Resources Code is
4 amended to read:

5 25746. (a) One percent of the money collected pursuant to the
6 renewable energy public goods charge shall be used in accordance
7 with this chapter to promote renewable energy and disseminate
8 information on renewable energy technologies, including emerging
9 renewable technologies, and to help develop a consumer market
10 for renewable energy and for small-scale emerging renewable
11 energy technologies.

12 (b) If the commission provides funding for a regional accounting
13 system to verify compliance with the renewable portfolio standard
14 by retail sellers, pursuant to subdivision (b) of Section 399.25 of
15 the Public Utilities Code, the commission shall recover all costs
16 from user fees.

17 SEC. 7. Section 25747 of the Public Resources Code is
18 amended to read:

19 25747. (a) The commission shall adopt guidelines governing
20 the funding programs authorized under this chapter, at a publicly
21 noticed meeting offering all interested parties an opportunity to
22 comment. Substantive changes to the guidelines may not be
23 adopted without at least 10 days' written notice to the public. The
24 public notice of meetings required by this subdivision may not be
25 less than 30 days. Notwithstanding any other provision of law, any
26 guidelines adopted pursuant to this chapter or Section 399.25 of
27 the Public Utilities Code, shall be exempt from the requirements
28 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
29 Division 3 of Title 2 of the Government Code. The Legislature
30 declares that the changes made to this subdivision by the act
31 amending this section during the 2002 portion of the 2001–02
32 Regular Session are declaratory of, and not a change in existing
33 law.

34 (b) Funds to further the purposes of this chapter may be
35 committed for multiple years.

36 (c) Awards made pursuant to this chapter are grants, subject to
37 appeal to the commission upon a showing that factors other than
38 those described in the guidelines adopted by the commission were
39 applied in making the awards and payments. Any actions taken
40 by an applicant to apply for, or become or remain eligible and

1 registered to receive, payments or awards, including satisfying
2 conditions specified by the commission, shall not constitute the
3 rendering of goods, services, or a direct benefit to the commission.

4 (d) An award made pursuant to this chapter, the amount of the
5 award, and the terms and conditions of the grant are public
6 information.

7 SEC. 8. Section 25751 of the Public Resources Code is
8 amended to read:

9 25751. (a) The Renewable Resource Trust Fund is hereby
10 created in the State Treasury.

11 (b) The following accounts are hereby established within the
12 Renewable Resource Trust Fund:

13 (1) Existing Renewable Resources Account.

14 (2) Emerging Renewable Resources Account.

15 (3) Renewable Resources Consumer Education Account.

16 (c) The money in the fund may be expended, only upon
17 appropriation by the Legislature in the annual Budget Act, for the
18 following purposes:

19 (1) The administration of this article by the state.

20 (2) The state's expenditures associated with the accounting
21 system established by the commission pursuant to subdivision (b)
22 of Section 399.25 of the Public Utilities Code.

23 (d) That portion of revenues collected by electrical corporations
24 for the benefit of in-state operation and development of existing
25 and new and emerging renewable resource technologies, pursuant
26 to Section 399.8 of the Public Utilities Code, shall be transmitted
27 to the commission at least quarterly for deposit in the Renewable
28 Resource Trust Fund pursuant to Section 25740.5. After setting
29 aside in the fund money that may be needed for expenditures
30 authorized by the annual Budget Act in accordance with
31 subdivision (c), the Treasurer shall immediately deposit money
32 received pursuant to this section into the accounts created pursuant
33 to subdivision (b) in proportions designated by the commission
34 for the current calendar year. Notwithstanding Section 13340 of
35 the Government Code, the money in the fund and the accounts
36 within the fund are hereby continuously appropriated to the
37 commission without regard to fiscal year for the purposes
38 enumerated in this chapter.

39 (e) Upon notification by the commission, the Controller shall
40 pay all awards of the money in the accounts created pursuant to

subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 9. Section 387 of the Public Utilities Code is repealed.

SEC. 10. Section 399.2.5 of the Public Utilities Code is amended to read:

399.2.5. (a) Notwithstanding Sections 1001 to 1013, inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities is necessary to the provision of electric service for purposes of Section 1003 if the commission finds that the new facility is reasonably necessary or appropriate to facilitate achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(b) With respect to a transmission facility described in subdivision (a), the commission shall take all feasible actions to

1 ensure that the transmission rates established by the Federal Energy
2 Regulatory Commission are fully reflected in any retail rates
3 established by the commission. These actions shall include all of
4 the following:

5 (1) Making findings, where supported by an evidentiary record,
6 that those transmission facilities provide benefit to the transmission
7 network and are reasonably necessary or appropriate to facilitate
8 the achievement of the renewables portfolio standard established
9 in Article 16 (commencing with Section 399.11).

10 (2) Directing the utility to which the generator will be
11 interconnected, where the direction is not preempted by federal
12 law, to seek the recovery through general transmission rates of the
13 costs associated with the transmission facilities.

14 (3) Asserting the positions described in paragraphs (1) and (2)
15 to the Federal Energy Regulatory Commission in appropriate
16 proceedings.

17 (4) Providing assurance, prior to a determination of rate recovery
18 by the Federal Energy Regulatory Commission (FERC) of those
19 costs that are subject to FERC jurisdiction, of the eligibility for
20 recovery in retail rates of any increase in transmission costs
21 incurred by an electrical corporation resulting from the construction
22 of the transmission facilities.

23 (5) Allowing recovery in retail rates of any increase in
24 transmission costs if the FERC does not approve recovery of those
25 costs in the rates that are subject to FERC jurisdiction after the
26 commission determines that the costs were ~~prudently incurred in~~
27 ~~accordance with subdivision (a) of Section 454.~~ *reasonably and*
28 *prudently incurred.*

29 (c) (1) The commission shall approve an advice letter seeking
30 assurance of cost recovery pursuant to paragraph (4) of subdivision
31 (b), if either of the following is true:

32 (A) The new transmission line or facility is an upgrade of an
33 existing transmission line or facility, or is a new facility within
34 either an existing transmission right-of-way or a transmission
35 corridor zone that has been designated by the Energy Commission
36 pursuant to Section 25331 of the Public Resources Code, and is
37 consistent with the priority transmission projects in the conceptual
38 transmission plan in the final Phase 3 report produced by the public
39 collaborative stakeholder planning process known as the
40 Renewable Energy Transmission Initiative (RETI).

(B) Not less than 50 percent of the planned use for the capacity of the new transmission line or facility is for interconnecting eligible renewable energy resources, as determined by the Independent System Operator or an electrical corporation, and all interconnection requests for that transmission line or facility are for generation facilities that comply with the greenhouse gases emission performance standard established pursuant to Chapter 3 (commencing with Section 8340) of Division 4.1.

(2) Approval of an advice letter pursuant to paragraph (1) is not binding upon the commission in making its determination whether or not to approve an application for a certificate of public convenience and necessity pursuant to Chapter 5 (commencing with Section 1001).

SEC. 11. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2013, and 33 percent by December 31, 2020, ~~and for the purposes of increasing the diversity, reliability, public health, and environmental benefits of the energy mix, reducing emissions of greenhouse gases, and promoting economic development~~ it is the intent of the Legislature that the commission and the Energy Commission implement the California Renewables Portfolio Standard Program described in this article.

~~(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.~~

~~(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.~~

(b) Achieving the renewables portfolio standard through the procurement of eligible renewable energy resources is intended

1 *to provide unique benefits to California, including all of the*
2 *following, each of which independently justifies the program:*

3 *(1) Displacing fossil fuel consumption.*

4 *(2) Adding new electrical generating facilities in the*
5 *transmission network within the Western Electricity Coordinating*
6 *Council service territory.*

7 *(3) Reducing air pollution due to the reduced use of fossil fuels*
8 *for electrical generation.*

9 *(4) Meeting the state's climate change goals by reducing*
10 *emissions of greenhouse gases associated with electrical*
11 *generation.*

12 *(5) Promoting stable retail rates for electric service.*

13 *(6) Meeting the state's need for a diversified and balanced*
14 *energy generation portfolio.*

15 *(7) Assistance with meeting the state's resource adequacy*
16 *requirements.*

17 *(8) Contributing to the safe and reliable operation of the*
18 *electrical grid, including providing predictable electrical supply,*
19 *voltage support, lower line losses, and congestion relief.*

20 *(9) Implementing the state's transmission and land-use planning*
21 *activities related to development of eligible renewable energy*
22 *resources.*

23 ~~(d)~~

24 *(c) The California Renewables Portfolio Standard Program is*
25 *intended to complement the Renewable Energy Resources Program*
26 *administered by the Energy Commission and established pursuant*
27 *to Chapter 8.6 (commencing with Section 25740) of Division 15*
28 *of the Public Resources Code.*

29 ~~(e)~~

30 *(d) New and modified electric transmission facilities will be*
31 *necessary to facilitate the state achieving its renewables portfolio*
32 *standard targets.*

33 ~~(f) (1) Delivering genuine renewable electricity~~

34 *(e) (1) Supplying electricity to California end-use customers*
35 *that is generated by eligible renewable energy resources is*
36 *necessary to improve California's air quality and public health,*
37 *and California end-use customers may be paying higher rates to*
38 *achieve the procurement requirements of this article. This delivered*
39 *electricity may be generated anywhere in the interconnected grid*
40 *that includes many states, and areas of both Canada and Mexico.*

(2) The definition of “delivered” and “delivery” requires generating resources located outside of California, but able to deliver that electricity to California end-use customers, to be treated identically to generating resources located within the state, without discrimination.

(3) California electrical corporations have already executed, and the commission has approved, power purchase agreements with eligible renewable energy resources located outside of California that will deliver ~~renewable~~ electricity to California end-use customers, and there are nearly 10,000 megawatts of additional proposed renewable energy resources located outside of California that are awaiting interconnection approval from the Independent System Operator. All of the delivered resources should count as eligible renewable energy resources under the renewables portfolio standard procurement requirements.

SEC. 12. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) “Conduit hydroelectric facility” means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

~~(b) “Delivered” and “delivery,” with respect to electricity, means~~
~~_____.~~

(b) “Balancing authority” means the responsible entity that integrates resource plans ahead of time, maintains load-interchange generation balance within a balancing authority area, and supports interconnection frequency in real time.

(c) “Balancing authority area” means the collection of generation, transmission, and loads within the metered boundaries of the area within which the balancing authority maintains the electrical load-resource balance.

(d) “California balancing authority” is a balancing authority with control over a balancing authority area primarily located in this state and operating for retail sellers and local publicly owned electric utilities subject to the requirements of this article and includes the Independent System Operator (ISO) and a local publicly owned electric utility operating a transmission grid that

1 *is not under the operational control of the ISO. A California*
2 *balancing authority is responsible for the operation of the*
3 *transmission grid within its metered boundaries which may not*
4 *be limited by the political boundaries of the State of California.*

5 (e)

6 (e) “Eligible renewable energy resource” means an electrical
7 generating facility that meets the definition of a “renewable
8 electrical generation facility” in Section 25741 of the Public
9 Resources Code, subject to the following:

10 (1) (A) An existing small hydroelectric generation facility of
11 30 megawatts or less shall be eligible only if a retail seller or local
12 publicly owned electric utility owned or procured the electricity
13 from the facility as of December 31, 2005. A small hydroelectric
14 generation unit with a nameplate capacity not exceeding 40
15 megawatts that is operated as part of a water supply or conveyance
16 system serving the jurisdiction of a local publicly owned electric
17 utility is an eligible renewable energy resource if the local publicly
18 owned electric utility owned or procured the electricity from the
19 facility as of December 31, 2005. A new hydroelectric facility is
20 not an eligible renewable energy resource if it will cause an adverse
21 impact on instream beneficial uses or cause a change in the volume
22 or timing of streamflow.

23 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
24 facility of 30 megawatts or less that commenced operation before
25 January 1, 2006, is an eligible renewable energy resource. A
26 conduit hydroelectric facility of 30 megawatts or less that
27 commences operation after December 31, 2005, is an eligible
28 renewable energy resource so long as it does not cause an adverse
29 impact on instream beneficial uses or cause a change in the volume
30 or timing of streamflow.

31 (2) A facility engaged in the combustion of municipal solid
32 waste shall not be considered an eligible renewable resource unless
33 it is located in Stanislaus County and was operational prior to
34 September 26, 1996.

35 (d)

36 (f) “Procure” means to acquire through ownership or contract.
37 ~~For purposes of meeting the renewables portfolio standard~~
38 ~~procurement requirements, a retail seller or local publicly owned~~
39 ~~electric utility may procure either delivered electricity generated~~
40 ~~by an eligible renewable energy resource that it owns or renewable~~

~~energy credits associated with electricity generated, but not necessarily delivered by, an eligible renewable energy resource. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 399.30.~~

~~(e)~~

(g) (1) “Renewable energy credit” means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section 399.25, that one unit of electricity was generated by an eligible renewable energy resource.

(2) “Renewable energy credit” includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) (A) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the Energy Commission for each renewable energy technology, shall result in the creation of a renewable energy credit.

(B) No electricity generated by a small hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (A) of paragraph (1) of subdivision (c).

(C) No electricity generated by a conduit hydroelectric generation facility shall result in the creation of a renewable energy credit unless the facility meets the requirements of subparagraph (B) of paragraph (1) of subdivision (c).

(D) No electricity generated by a facility engaged in the combustion of municipal solid waste shall result in the creation of a renewable energy credit unless the facility meets the requirements of paragraph (2) of subdivision (c).

~~(f)~~

1 (h) “Renewable energy public goods charge” means that portion
2 of the nonbypassable system benefits charge required to be
3 collected to fund renewable energy pursuant to the Reliable Electric
4 Service Investments Act (Article 15 (commencing with Section
5 399) of Chapter 2.3 of Part 1 of Division 1, for an electrical
6 corporation, and pursuant to Section 385 for a local publicly owned
7 electric utility.

8 ~~(g)~~

9 (i) “Renewables portfolio standard” means the specified
10 percentage of electricity generated by eligible renewable energy
11 resources that a retail seller or a local publicly owned electric utility
12 is required to procure pursuant to this article.

13 ~~(h)~~

14 (j) “Retail seller” means an entity engaged in the retail sale of
15 electricity to end-use customers located within the state, including
16 any of the following:

17 (1) An electrical corporation, as defined in Section 218.

18 (2) A community choice aggregator. The commission shall
19 institute a rulemaking to determine the manner in which a
20 community choice aggregator will participate in the renewables
21 portfolio standard program subject to the same terms and conditions
22 applicable to an electrical corporation.

23 (3) An electric service provider, as defined in Section 218.3,
24 for all sales of electricity to customers beginning January 1, 2006.
25 The commission shall institute a rulemaking to determine the
26 manner in which electric service providers will participate in the
27 renewables portfolio standard program. The electric service
28 provider shall be subject to the same terms and conditions
29 applicable to an electrical corporation pursuant to this article.
30 Nothing in this paragraph shall impair a contract entered into
31 between an electric service provider and a retail customer prior to
32 the suspension of direct access by the commission pursuant to
33 Section 80110 of the Water Code.

34 (4) “Retail seller” does not include any of the following:

35 (A) A corporation or person employing cogeneration technology
36 or producing electricity consistent with subdivision (b) of Section
37 218.

38 (B) The Department of Water Resources acting in its capacity
39 pursuant to Division 27 (commencing with Section 80000) of the
40 Water Code.

1 (C) A local publicly owned electric utility.

2 (i)

3 (k) “WECC” means the Western Electricity Coordinating
4 Council of the North American Electric Reliability Corporation,
5 or a successor to either corporation.

6 SEC. 13. Section 399.13 of the Public Utilities Code is
7 amended and renumbered to read:

8 399.25. The Energy Commission shall do all of the following:

9 (a) Certify eligible renewable energy resources that it determines
10 meet the criteria described in subdivision (c) of Section 399.12.

11 (b) Design and implement an accounting system to verify
12 compliance with the renewables portfolio standard by retail sellers
13 and local publicly owned electric utilities, to ensure that electricity
14 generated by an eligible renewable energy resource is counted
15 only once for the purpose of meeting the renewables portfolio
16 standard of this state or any other state, to certify renewable energy
17 credits produced by eligible renewable energy resources, and to
18 verify retail product claims in this state or any other state. In
19 establishing the guidelines governing this accounting system, the
20 Energy Commission shall collect data from electricity market
21 participants that it deems necessary to verify compliance of retail
22 sellers and local publicly owned electric utilities, in accordance
23 with the requirements of this article and the California Public
24 Records Act (Chapter 3.5 (commencing with Section 6250) of
25 Division 7 of Title 1 of the Government Code). In seeking data
26 from electrical corporations, the Energy Commission shall request
27 data from the commission. The commission shall collect data from
28 electrical corporations and remit the data to the Energy
29 Commission within 90 days of the request.

30 (c) Establish a system for tracking and verifying renewable
31 energy credits that, through the use of independently audited data,
32 verifies the generation-and-delivery of electricity associated with
33 each renewable energy credit and protects against multiple counting
34 of the same renewable energy credit. The Energy Commission
35 shall consult with other western states and with the Western
36 Electricity Coordinating Council in the development of this system.

37 (d) Certify, for purposes of compliance with the renewables
38 portfolio standard requirements by a retail seller, the eligibility of
39 renewable energy credits associated with ~~deliveries of electricity~~
40 ~~by an eligible renewable energy resource to~~ *eligible renewable*

1 *energy resources procured by* a local publicly owned electric
2 utility, if the Energy Commission determines that all of the
3 conditions of Section 399.31 have been met.

4 SEC. 14. Section 399.13 is added to the Public Utilities Code,
5 to read:

6 399.13. (a) (1) The commission shall direct each electrical
7 corporation to annually prepare a renewable energy procurement
8 plan that includes the matter in paragraph (5), to satisfy its
9 obligations under the renewables portfolio standard. To the extent
10 feasible, this procurement plan shall be proposed, reviewed, and
11 adopted by the commission as part of, and pursuant to, a general
12 procurement plan process. The commission shall require each
13 electrical corporation to review and update its renewable energy
14 procurement plan as it determines to be necessary.

15 (2) Every electrical corporation that owns electrical transmission
16 facilities shall annually prepare, as part of the Federal Energy
17 Regulatory Commission Order 890 process, and submit to the
18 commission, a report identifying any electrical transmission
19 facility, upgrade, or enhancement that is reasonably necessary to
20 achieve the renewable energy resources procurement requirements
21 of this article. Each report shall look forward at least five years
22 and, to ensure that adequate investments are made in a timely
23 manner, shall include a preliminary schedule when an application
24 for a certificate of public convenience and necessity will be made,
25 pursuant to Chapter 5 (commencing with Section 1001), for any
26 electrical transmission facility identified as being reasonably
27 necessary to achieve the renewable energy resources procurement
28 requirements of this article. Each electrical corporation that owns
29 electrical transmission facilities shall ensure that project specific
30 interconnection studies are completed in a timely manner.

31 (3) The commission shall direct each retail seller to prepare and
32 submit an annual compliance report that includes all of the
33 following:

34 (A) The current status and progress made during the prior year
35 toward procurement of eligible renewable energy resources as a
36 percentage of retail sales, including, if applicable, the status of any
37 necessary siting and permitting approvals from federal, state, and
38 local agencies for those in-state eligible renewable energy resources
39 procured by the retail seller, procurement of eligible renewable

1 energy resources located outside the state and within the WECC,
2 and procurement of renewable energy credits.

3 (B) If the retail seller is an electrical corporation, the current
4 status and progress made during the prior year toward construction
5 of, and upgrades to, transmission and distribution facilities and
6 other electrical system components it owns to interconnect eligible
7 renewable energy resources and to deliver the electricity generated
8 by those resources to load, including the status of planning, siting,
9 and permitting transmission facilities by federal, state, and local
10 agencies.

11 (C) Recommendations to remove impediments to making
12 progress toward achieving the renewable energy resources
13 procurement requirements established pursuant to this article.

14 (4) The commission shall adopt, by rulemaking, all of the
15 following:

16 (A) A process that provides criteria for the rank ordering and
17 selection of least-cost and best-fit eligible renewable energy
18 resources to comply with the California Renewables Portfolio
19 Standard Program obligations on a total cost basis. This process
20 shall take into account all of the following:

21 (i) Estimates of indirect costs associated with needed
22 transmission investments and ongoing electrical corporation
23 expenses resulting from integrating and operating eligible
24 renewable energy resources.

25 (ii) The cost impact of procuring the eligible renewable energy
26 resources on the electrical corporation's electricity portfolio.

27 (iii) The viability of the project to construct and reliably operate
28 the eligible renewable energy resource, including the developer's
29 experience, the feasibility of the technology used to generate
30 electricity, and the risk that the facility will not be built, or that
31 construction will be delayed, with the result that electricity will
32 not be delivered as required by the contract.

33 (B) Rules permitting retail sellers to apply excess procurement
34 in one year to subsequent years.

35 (C) Standard terms and conditions to be used by all electrical
36 corporations in contracting for eligible renewable energy resources,
37 including performance requirements for renewable generators. A
38 contract for the purchase of electricity generated by an eligible
39 renewable energy resource shall, at a minimum, include the
40 renewable energy credits associated with all electricity generation

1 specified under the contract. The standard terms and conditions
2 shall include the requirement that, no later than six months after
3 the commission's approval of an electricity purchase agreement
4 entered into pursuant to this article, the following information
5 about the agreement shall be disclosed by the commission: party
6 names, resource type, project location, and project capacity.

7 (D) An appropriate minimum margin of procurement above the
8 minimum procurement level necessary to comply with the
9 renewables portfolio standard to mitigate the risk that renewable
10 projects planned or under contract are delayed or canceled. Nothing
11 in this paragraph shall preclude an electrical corporation from
12 voluntarily proposing a margin of procurement above the
13 appropriate minimum margin established by the commission.

14 (5) Consistent with the goal of increasing California's reliance
15 on eligible renewable energy resources, the renewable energy
16 procurement plan submitted by an electrical corporation shall
17 include all of the following:

18 (A) An assessment of annual or multiyear portfolio supplies
19 and demand to determine the optimal mix of eligible renewable
20 energy resources with deliverability characteristics that may include
21 peaking, dispatchable, baseload, firm, and as-available capacity.

22 (B) Potential compliance delays related to the conditions
23 described in paragraph (4) of subdivision (b) of Section 399.15.

24 (C) A bid solicitation setting forth the need for eligible
25 renewable energy resources of each deliverability characteristic,
26 required online dates, and locational preferences, if any.

27 (D) A status update on the development schedule of all eligible
28 renewable energy resources currently under contract.

29 (E) Consideration of mechanisms for price adjustments
30 associated with the costs of key components for eligible renewable
31 energy resource projects with online dates more than 24 months
32 after the date of contract execution.

33 (F) An assessment of the risk that an eligible renewable energy
34 resource will not be built, or that construction will be delayed,
35 with the result that electricity will not be delivered as required by
36 the contract.

37 (6) In soliciting and procuring eligible renewable energy
38 resources, each electrical corporation shall offer contracts of no
39 less than 10 years in duration, unless the commission approves of
40 a contract of shorter duration.

(7) In soliciting and procuring eligible renewable energy resources for California-based projects, each electrical corporation shall give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

(b) A retail seller may enter into a combination of long- and short-term contracts for delivery of electricity and associated renewable energy credits. The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through contracts of at least 10 years' duration.

(c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy resource procurement plan prior to the commencement of renewable energy procurement pursuant to this article by an electrical corporation.

(d) Unless previously preapproved by the commission, an electrical corporation shall submit a contract for the generation of an eligible renewable energy resource to the commission for review and approval consistent with an approved renewable energy resource procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition among the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(e) The commission shall establish milestones in the development of the project to evaluate the potential for compliance with the adopted renewable energy resource procurement plan and a set of actions that will occur as a result of not meeting those milestones. These actions may include, but shall not be limited to, determining a cure period for failure to meet milestones, a suspense period on the contract online date for events beyond the developer's control that cause a failure to meet milestones, allowing other developers that are prepared to go forward to move ahead of suspended contracts, and the forfeiture of deposits.

(f) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority pursuant to Section 2113

1 to require compliance. The commission shall enforce comparable
2 penalties on any retail seller that is not an electrical corporation
3 that fails to meet the procurement targets established pursuant to
4 Section 399.15.

5 (g) (1) The commission may authorize a procurement entity to
6 enter into contracts on behalf of customers of a retail seller for
7 deliveries of eligible renewable energy resources to satisfy the
8 retail seller's renewables portfolio standard procurement
9 requirements. The commission may not require any person or
10 corporation to act as a procurement entity or require any party to
11 purchase eligible renewable energy resources from a procurement
12 entity.

13 (2) Subject to review and approval by the commission, the
14 procurement entity shall be permitted to recover reasonable
15 administrative and procurement costs through the retail rates of
16 end-use customers that are served by the procurement entity and
17 are directly benefiting from the procurement of eligible renewable
18 energy resources.

19 (h) Procurement and administrative costs associated with
20 contracts entered into by an electrical corporation for eligible
21 renewable energy resources pursuant to this article and approved
22 by the commission shall be deemed reasonable and shall be
23 recoverable in rates.

24 (i) Construction, alteration, demolition, installation, and repair
25 work on an eligible renewable energy resource that receives
26 production incentives pursuant to Section 25742 of the Public
27 Resources Code, including work performed to qualify, receive, or
28 maintain production incentives are "public works" for the purposes
29 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
30 2 of the Labor Code.

31 SEC. 15. Section 399.14 of the Public Utilities Code is
32 repealed.

33 SEC. 16. Section 399.14 is added to the Public Utilities Code,
34 to read:

35 399.14. (a) (1) An electrical corporation may, pursuant to
36 Chapter 5 (commencing with Section 1001), and in order to meet
37 its renewables portfolio standard procurement requirements, apply
38 to the commission for approval to construct, own, and operate an
39 eligible renewable energy resource.

(2) If the proposed eligible renewable energy resource complies with the requirements of subdivision (b), the commission shall approve an application filed pursuant to paragraph (1), until the commission has approved applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation's anticipated retail sales by December 31, 2020.

(3) The commission may approve additional applications for eligible renewable energy resources once the commission has approved sufficient applications for eligible renewable energy resources for the electrical corporation that, when constructed and operating, will provide 8.25 percent of the electrical corporation's anticipated retail sales by December 31, 2020.

(b) The commission shall not approve any application by an electrical corporation pursuant to subdivision (a) unless both of the following conditions are met:

(1) The eligible renewable energy resource utilizes a viable technology at a reasonable cost.

(2) The eligible renewable energy resource provides comparable or superior value to ratepayers when compared to then recent or contemporaneous solicitations for generation provided by eligible renewable energy resources.

(c) In approving any application by an electrical corporation for approval to construct, own, and operate an eligible renewable energy resource, the commission shall apply traditional cost-of-service ratemaking, including reasonableness review after construction is completed.

SEC. 17. Section 399.15 of the Public Utilities Code is repealed.

SEC. 18. Section 399.15 is added to the Public Utilities Code, to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all retail sellers to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each compliance period to achieve the targets established under this article.

(b) The commission shall implement renewables portfolio standard procurement requirements only as follows:

~~(1) Each retail seller shall procure the following minimum percentages of eligible renewable energy resources in the following years, and continue to procure at least those percentages in subsequent years:~~

~~(A) Until December 31, 2012, the same percentage as actually achieved by the retail seller during 2009.~~

~~(B) Twenty percent by December 31, 2013.~~

~~(C) Twenty-five percent by December 31, 2016.~~

~~(D) Thirty-three percent by December 31, 2020.~~

~~(2) A retail seller with 33 percent of its retail sales of electricity procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources, except to the extent required to maintain a 33 percent renewables portfolio standard. A retail seller may voluntarily increase its procurement of eligible renewable energy resources beyond the renewables portfolio standard procurement requirements.~~

~~(3) Only for purposes of establishing the renewables portfolio standard procurement requirements of paragraph (1), the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.~~

~~(4) The commission may only allow a retail seller for a maximum of two years per request to delay compliance with a renewables portfolio standard procurement requirement established pursuant to subparagraph (B) or (C) of paragraph (1), if it finds that the retail seller has demonstrated that either of the following conditions will prevent timely compliance:~~

(1) Each retail seller shall procure a minimum quantity of eligible renewable energy resources during each of the following compliance periods:

(A) January 1, 2011, to December 31, 2012, inclusive.

(B) January 1, 2013, to December 31, 2016, inclusive.

(C) January 1, 2017, to December 31, 2020, inclusive.

(2) (A) No later than January 1, 2012, the commission shall establish the quantity of electricity generated by eligible renewable energy resources to be procured by the retail seller for each

1 compliance period. These quantities shall be established in the
2 same manner for all retail sellers and result in the same
3 percentages for all retail sellers.

4 (B) In establishing quantities for the compliance period from
5 January 1, 2011, to December 31, 2012, inclusive, the commission
6 shall assume procurement for each retail seller equal to 20 percent
7 of retail sales in each year. For the following compliance periods,
8 the quantities shall reflect reasonable progress in each of the
9 intervening years sufficient to ensure that the procurement of
10 electricity generated by eligible renewable energy resources
11 achieves 25 percent of retail sales by December 31, 2016, and 33
12 percent of retail sales by December 31, 2020. The commission
13 shall require retail sellers to procure not less than 33 percent of
14 retail sales of electricity generated from eligible renewable energy
15 resources in all subsequent years.

16 (C) Retail sellers shall be obligated to procure no less than the
17 quantities associated with all intervening years by the end of each
18 compliance period. Deficits associated with any compliance period
19 shall not be added to any future compliance period.

20 (3) The commission shall not require the procurement of eligible
21 renewable energy resources in excess of the quantities identified
22 in paragraph (2). A retail seller may voluntarily increase its
23 procurement of eligible renewable energy resources beyond the
24 renewables portfolio standard procurement requirements.

25 (4) Only for purposes of establishing the renewables portfolio
26 standard procurement requirements of paragraph (1) and
27 determining the quantities pursuant to paragraph (2), the
28 commission shall include all electricity sold to retail customers
29 by the Department of Water Resources pursuant to Division 27
30 (commencing with Section 80000) of the Water Code in the
31 calculation of retail sales by an electrical corporation.

32 (5) The commission may allow a retail seller to delay
33 compliance with a renewables portfolio standard procurement
34 requirement if it finds that the retail seller has demonstrated that
35 any of the following conditions are beyond the control of a retail
36 seller and will prevent timely compliance:

37 (A) There is inadequate transmission capacity to allow for
38 sufficient electricity to be delivered from proposed eligible
39 renewable energy resource projects using the current operational
40 protocols of the Independent System Operator (ISO). The

1 commission shall consult with the ISO in making its findings
2 relative to the existence of this condition. In making its findings
3 relative to the existence of this condition with respect to a retail
4 seller that owns transmission lines, the commission shall consider
5 both of the following:

6 (i) Whether the retail seller has undertaken, *in a timely fashion*,
7 all reasonable measures to develop and construct new transmission
8 lines or upgrades to existing lines ~~in a timely fashion intended to~~
9 *transmit electricity generated by eligible renewable energy*
10 *resources to its retail customers*.

11 (ii) Whether the retail seller has taken all reasonable operational
12 measures, as verified by the ISO, to maximize deliveries of
13 electricity from eligible renewable energy resources in advance
14 of transmission availability.

15 (B) Unanticipated permitting, interconnection, or other delays
16 for procured eligible renewable energy resource projects, or there
17 is an insufficient supply of delivered electricity from eligible
18 renewable energy resources available to the retail seller. In making
19 ~~this finding, the commission shall consider whether the retail seller~~
20 ~~has prudently managed portfolio risks, relied on sufficient viable~~
21 ~~projects, sought to develop its own eligible renewable energy~~
22 ~~resources, and procured an appropriate minimum margin of~~
23 ~~procurement above the minimum procurement level necessary to~~
24 ~~comply with the renewables portfolio standard to compensate for~~
25 ~~foreseeable delays or insufficient supply.~~

26 ~~(5) Prior supply. Prior to granting a delay pursuant to paragraph~~
27 ~~(4), the commission shall require a retail seller to demonstrate that~~
28 ~~it has presented evidence that it has made material progress in~~
29 ~~reducing its compliance deficit and has taken all reasonable~~
30 ~~measures consistent with this article to procure cost-effective~~
31 ~~distributed generation and renewable energy credits consistent~~
32 ~~with the restrictions in paragraph (6) of subdivision (a) of Section~~
33 ~~399.21. a finding that this condition prevents timely compliance,~~
34 ~~the commission shall consider whether the retail seller has done~~
35 ~~all of the following:~~

36 (i) *Prudently managed portfolio risks.*

37 (ii) *Sought to develop its own eligible renewable energy*
38 *resources.*

39 (iii) *Procured an appropriate minimum margin of procurement*
40 *above the minimum procurement level necessary to comply with*

1 *the renewables portfolio standard to compensate for foreseeable*
2 *delays or insufficient supply.*

3 *(iv) Taken all reasonable measures, consistent with this article,*
4 *to procure cost-effective distributed generation and renewable*
5 *energy credits.*

6 *(C) Unanticipated curtailment of eligible renewable energy*
7 *resources necessary to address the needs of a balancing authority*
8 *or transmission owner. In making this determination, the*
9 *commission shall ensure that any curtailment by a transmission*
10 *owner is consistent with the terms of an approved renewable*
11 *procurement plan.*

12 (6) The commission may not approve any request to delay a
13 compliance obligation for which it has already granted a delay
14 unless a retail seller presents evidence that it has made material
15 progress in reducing its compliance deficiency and has identified
16 and taken all reasonable actions under its control to pursue
17 additional options to comply with the delayed interim procurement
18 obligation and remove impediments that are related to its delay.

19 ~~(7) The commission may not authorize any delay in achieving~~
20 ~~the 33 percent by December 31, 2020, renewables portfolio~~
21 ~~standard procurement requirement of subparagraph (D) of~~
22 ~~paragraph (1).~~

23 ~~(8)~~
24 (7) If a retail seller fails to procure sufficient eligible renewable
25 energy resources to comply with a renewables portfolio standard
26 procurement requirement and fails to obtain an order from the
27 commission authorizing a compliance delay pursuant to paragraph
28 ~~(4)~~ (5), the commission shall exercise its authority pursuant to
29 Section 2113.

30 ~~(e) The commission shall establish a methodology to determine~~
31 ~~the market price of electricity for terms corresponding to the length~~
32 ~~of contracts with eligible renewable energy resources, in~~
33 ~~consideration of the long-term ownership, operating, and~~
34 ~~fixed-price fuel costs associated with fixed-price electricity from~~
35 ~~new generating facilities. The methodology shall reflect all of the~~
36 ~~following:~~

37 ~~(1) The value of different products including baseload, peaking,~~
38 ~~and as-available electricity.~~

39 ~~(2) All current and anticipated environmental compliance costs,~~
40 ~~including mitigation of emissions of greenhouse gases and air~~

1 pollution offsets associated with the operation of new generating
2 facilities.

3 ~~(d) (1) The commission shall establish a limitation for each~~
4 ~~electrical corporation on the expenditures above the market costs~~
5 ~~determined in subdivision (c) for the procurement of all eligible~~
6 ~~renewable energy resources that are used to comply with the~~
7 ~~electrical corporation's renewables portfolio standard. The cost~~
8 ~~limitation shall equal 6 percent of the total bundled electric~~
9 ~~revenues recorded by the electrical corporation in 2008 multiplied~~
10 ~~by the number of years remaining until 2020. Total bundled electric~~
11 ~~revenues shall include revenues collected by the electrical~~
12 ~~corporation on behalf of the Department of Water Resources for~~
13 ~~procurement activities conducted pursuant to Division 27~~
14 ~~(commencing with Section 80000) of the Water Code.~~

15 ~~(2) The calculation of the above-market costs shall include all~~
16 ~~procurement of eligible renewable energy resources that are used~~
17 ~~to comply with the electrical corporation's renewables portfolio~~
18 ~~standard that are submitted for approval to the commission after~~
19 ~~January 1, 2011.~~

20 ~~(3) The above-market costs of procurement do not include any~~
21 ~~indirect expenses, including imbalance energy charges, sale of~~
22 ~~excess energy, decreased generation from existing resources, or~~
23 ~~transmission upgrades.~~

24 ~~(4) Calculations of the above-market costs shall include, as a~~
25 ~~reduction to the total above-market costs, procurement from~~
26 ~~eligible renewable energy resources that are used to meet the~~
27 ~~renewables portfolio standard procurement requirements~~
28 ~~established pursuant to paragraph (1) of subdivision (b) that are~~
29 ~~below the market prices determined in subdivision (c) for each~~
30 ~~year.~~

31 ~~(5) In calculating the limit on above-market costs established~~
32 ~~in paragraph (1), the commission shall account for the potential~~
33 ~~that some procured resources may be delayed or canceled.~~

34 ~~(e) If the cost limitation for an electrical corporation is~~
35 ~~insufficient to support the projected net above-market costs~~
36 ~~identified in subdivision (d), the commission shall allow the~~
37 ~~electrical corporation to refrain from entering into new contracts~~
38 ~~or to construct facilities for that future year beyond the quantity~~
39 ~~of eligible renewable energy resources that can be procured at or~~
40 ~~below the market prices established in subdivision (c).~~

1 (f) Notwithstanding subdivision (e), if an electrical corporation's
2 net annual above-market costs for a future year exceed the electrical
3 corporation's cost limitation, the electrical corporation may
4 voluntarily propose to procure eligible renewable energy resources
5 at above-market prices. Any voluntary procurement under this
6 paragraph shall be subject to commission approval prior to the
7 expense being recovered in rates.

8 (g) (1) The commission shall monitor the status of the cost
9 limitation for each electrical corporation in order to ensure
10 compliance with this article.

11 (2) If the commission determines that an electrical corporation
12 may exceed its cost limitation prior to achieving the renewables
13 portfolio standard procurement requirements, the commission shall
14 do all of the following within 60 days of making that determination:

15 (A) Investigate and identify the reasons why the electrical
16 corporation may exceed its annual cost limitation.

17 (B) Identify those actions that can be taken to ensure that the
18 electrical corporation continues to comply with its renewables
19 portfolio standard procurement requirements.

20 (C) Notify the appropriate policy and fiscal committees of the
21 Legislature that the electrical corporation may exceed its cost
22 limitation, the reasons why the electrical corporation may exceed
23 its cost limitation, and those actions that may be taken by the
24 electrical corporation to comply with the renewables portfolio
25 standard procurement requirements.

26 (3) The commission shall examine mechanisms for mitigating
27 the potential impact of low fossil fuel prices on the cost limitation
28 of each electrical corporation and make recommendations to the
29 Legislature on any changes in law it identifies to mitigate those
30 impacts.

31 (h) The commission shall examine and adopt mechanisms to
32 limit the potential influence of the market prices established in
33 subdivision (e) on seller pricing and buyer contract selection.

34 (c) *The commission may establish a limitation for each electrical*
35 *corporation on the procurement expenditures for all eligible*
36 *renewable energy resources used to comply with the renewables*
37 *portfolio standard. In establishing this limitation, the commission*
38 *shall rely on the following:*

39 (1) *The most recent renewable energy procurement plan.*

1 (2) *Procurement expenditures that approximate the expected*
2 *cost of building, owning, and operating eligible renewable energy*
3 *resources.*

4 (3) *The potential that some planned resource additions may be*
5 *delayed or canceled.*

6 (d) *In developing the limitation pursuant to subdivision (c), the*
7 *commission shall ensure all of the following:*

8 (1) *The limitation is set at a level that prevents disproportionate*
9 *rate impacts.*

10 (2) *The costs of all procurement credited toward achieving the*
11 *renewables portfolio standard are counted towards the limitation.*

12 (3) *Procurement expenditures do not include any indirect*
13 *expenses, including imbalance energy charges, sale of excess*
14 *energy, decreased generation from existing resources, transmission*
15 *upgrades, or the costs associated with relicensing any utility-owned*
16 *hydroelectric facilities.*

17 (i)

18 (e) The establishment of a renewables portfolio standard shall
19 not constitute implementation by the commission of the federal
20 Public Utility Regulatory Policies Act of 1978 (Public Law
21 95-617).

22 ~~(j) The commission shall consult with the Energy Commission~~
23 ~~in establishing renewables portfolio standard policies.~~

24 SEC. 19. Section 399.16 of the Public Utilities Code is
25 amended and renumbered to read:

26 399.21 (a) The commission, by rule, shall authorize the use
27 of renewable energy credits to satisfy the renewables portfolio
28 standard procurement requirements established pursuant to this
29 article, subject to the following conditions:

30 (1) Prior to authorizing any renewable energy credit to be used
31 toward satisfying the renewables portfolio standard procurement
32 requirements, the commission and the Energy Commission shall
33 conclude that the tracking system established pursuant to
34 subdivision (c) of Section 399.25, is operational, is capable of
35 independently verifying that the electricity generated by an eligible
36 renewable energy resource and is delivered to the retail seller, and
37 can ensure that renewable energy credits shall not be double
38 counted by any seller of electricity within the service territory of
39 the WECC.

1 (2) Each renewable energy credit shall be counted only once
2 for compliance with the renewables portfolio standard of this state
3 or any other state, or for verifying retail product claims in this state
4 or any other state.

5 (3) All revenues received by an electrical corporation for the
6 sale of a renewable energy credit shall be credited to the benefit
7 of ratepayers.

8 (4) No renewable energy credits shall be created for electricity
9 generated pursuant to any electricity purchase contract with a retail
10 seller or a local publicly owned electric utility executed before
11 January 1, 2005, unless the contract contains explicit terms and
12 conditions specifying the ownership or disposition of those credits.
13 Deliveries under those contracts shall be tracked through the
14 accounting system described in subdivision (b) of Section 399.25
15 and included in the quantity of eligible renewable energy resources
16 of the purchasing retail seller pursuant to Section 399.15.

17 (5) No renewable energy credits shall be created for electricity
18 generated under any electricity purchase contract executed after
19 January 1, 2005, pursuant to the federal Public Utility Regulatory
20 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries
21 under the electricity purchase contracts shall be tracked through
22 the accounting system described in subdivision (b) of Section
23 399.12 and count toward the renewables portfolio standard
24 obligations of the purchasing retail seller.

25 ~~(6) The use, by a retail seller, of renewable energy credits~~
26 ~~associated with electricity that does not satisfy the delivery~~
27 ~~requirements of subdivision (b) of Section 399.12 shall be limited~~
28 ~~to 25 percent of the retail seller's renewables portfolio standard~~
29 ~~procurement requirements.~~

30 ~~(7) If a retail seller exceeds the 25-percent limitation of~~
31 ~~paragraph (6) as a result of contracts executed prior to September~~
32 ~~18, 2009, and if those contracts are approved by the commission,~~
33 ~~the retail seller shall be allowed to fully use the renewable energy~~
34 ~~credits toward meeting its renewables portfolio standard~~
35 ~~procurement requirements through the original term of the~~
36 ~~approved contracts, but may not procure additional renewable~~
37 ~~energy credits associated with electricity that does not satisfy the~~
38 ~~delivery requirements of subdivision (b) of Section 399.12. For a~~
39 ~~local publicly owned electric utility acting pursuant to subdivision~~
40 ~~(e) of Section 399.30, contract execution occurs on the date of~~

1 ~~project approval by the utility's governing board or the board of~~
2 ~~a joint powers authority of which the utility is a member and that~~
3 ~~approval shall take the place of approval by the commission for a~~
4 ~~retail seller.~~

5 ~~(8)~~

6 (6) No renewable energy credit shall be eligible for compliance
7 with a renewables portfolio standard procurement requirement
8 after 18 months from the initial date of generation of the associated
9 electricity. A renewable energy credit is used for compliance when
10 the retail seller or local publicly owned electric utility irrevocably
11 retires the credit within the tracking system established pursuant
12 to subdivision (c) of Section 399.25.

13 ~~(9) If an electrical corporation or local publicly owned electric~~
14 ~~utility owns and operates eligible renewable energy resources~~
15 ~~constructed after January 1, 2008, in its service territory or in the~~
16 ~~service territory of another electrical corporation or local publicly~~
17 ~~owned utility, it may use additional renewable energy credits~~
18 ~~beyond those allowed by paragraphs (6) and (7) in an amount~~
19 ~~authorized by this paragraph. The additional renewable energy~~
20 ~~credits shall be equal to the average annual amount of delivered~~
21 ~~electricity from the owned and operated eligible renewable energy~~
22 ~~resources, or the forecast of the delivered electricity from the~~
23 ~~resource after its construction has begun. Ownership of the~~
24 ~~resources shall be obtained by the electrical corporation no later~~
25 ~~than the time of commencement of commercial operation. The~~
26 ~~maximum amount of additional renewable energy credits~~
27 ~~authorized under this section shall not exceed 5 percent of the~~
28 ~~electrical corporation's renewables portfolio standard procurement~~
29 ~~requirements.~~

30 ~~(10)~~

31 (7) Any additional condition that the commission determines
32 is reasonable.

33 (b) The commission shall allow an electrical corporation to
34 recover the reasonable costs of purchasing renewable energy credits
35 in rates.

36 *SEC. 20. Section 399.16 is added to the Public Utilities Code,*
37 *to read:*

38 *399.16. (a) Various electricity products from eligible*
39 *renewable energy resources located within the WECC transmission*
40 *network service territory shall be eligible to comply with the*

1 *renewables portfolio standard procurement requirements. These*
2 *electricity products may be differentiated by their impacts on the*
3 *operation of the grid in supplying electricity, as well as, meeting*
4 *the requirements of this article.*

5 *(b) Consistent with the goals of procuring the least-cost and*
6 *best-fit eligible renewable energy resources that meet project*
7 *viability principles approved by the commission, eligible renewable*
8 *energy resources providing the benefits set forth in Section 399.11*
9 *shall be procured to meet the following balanced portfolio:*

10 *(1) Eligible renewable energy resource electricity products that*
11 *meet either of the following criteria:*

12 *(A) Have a first point of interconnection with a California*
13 *balancing authority or are scheduled from the eligible renewable*
14 *energy resource on an hourly or within-the-hour basis into a*
15 *California balancing authority without substituting electricity from*
16 *another source. Any fraction of the electricity generated by an*
17 *eligible renewable energy resource satisfying this criterion shall*
18 *count toward this product category.*

19 *(B) Have an agreement with a California balancing authority*
20 *that allows the balancing authority to dynamically transfer the*
21 *electricity product.*

22 *(2) Firmed and shaped eligible renewable energy resource*
23 *electricity products providing incremental electricity, procured*
24 *through a contract of not less than 10 years duration, or ownership,*
25 *using substitute electricity to balance schedules meeting the*
26 *requirements of Section 8341, and scheduled into a California*
27 *balancing authority.*

28 *(3) Eligible renewable energy resource electricity products, or*
29 *any fraction of the electricity generated, that do not qualify under*
30 *paragraph (1) or (2), including unbundled renewable energy*
31 *credits.*

32 *(c) In order to achieve the balanced portfolio pursuant to*
33 *subdivision (b), all retail sellers shall be subject to the following*
34 *requirements:*

35 *(1) Not less than 75 percent of the eligible renewable energy*
36 *resource electricity products associated with contracts executed*
37 *after June 1, 2010, shall meet the product requirements of*
38 *paragraph (1) of subdivision (b).*

39 *(2) Not more than 10 percent of the eligible renewable energy*
40 *resource electricity products associated with contracts executed*

1 *after June 1, 2010, shall meet the product requirements of*
2 *paragraph (3) of subdivision (b).*

3 *(3) Any renewable energy resources contracts executed on or*
4 *after June 1, 2010, not subject to the limitations of paragraph (1)*
5 *or (2), shall meet the product requirements of paragraph (2) of*
6 *subdivision (b).*

7 *(d) A contract for an eligible renewable energy resource that*
8 *is executed prior to June 1, 2010, shall count in full towards the*
9 *procurement requirements established by the commission pursuant*
10 *to Section 399.15, if both of the following conditions are met:*

11 *(1) The resource was an eligible renewable energy resource*
12 *pursuant to this article as of that date.*

13 *(2) For an electrical corporation, the contract has been*
14 *approved by the commission, even if that approval occurs after*
15 *June 1, 2010.*

16 ~~SEC. 20.~~

17 *SEC. 21.* Section 399.17 of the Public Utilities Code is amended
18 to read:

19 399.17. (a) Subject to the provisions of this section, the
20 requirements of this article apply to an electrical corporation with
21 60,000 or fewer customer accounts in California and that either
22 serves retail end-use customers outside California or that is located
23 in a control area that is not under the operational ~~control~~ *balancing*
24 *authority* of the Independent System Operator *or other California*
25 *balancing authority* and receives the majority of its electrical
26 requirements from generating facilities located outside of
27 California.

28 (b) For an electrical corporation with 60,000 or fewer customer
29 accounts in California and that either serves retail end-use
30 customers outside California, or that is located in a control area
31 that is not under the operational control of the Independent System
32 Operator and receives the majority of its electrical requirements
33 from generating facilities located outside of California, an eligible
34 renewable energy resource includes a facility that is located outside
35 California, if the facility is connected to the WECC transmission
36 system, provided all of the following conditions are met:

37 (1) The electricity generated by the facility is procured by the
38 electrical corporation on behalf of its California customers, and is
39 not used to fulfill renewable energy procurement requirements in
40 other states.

(2) The electrical corporation participates in, and complies with, the accounting system administered by the Energy Commission pursuant to subdivision (b) of Section 399.25.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the procurement requirements of this article.

(c) The commission shall determine the procurement requirements for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year.

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, or 399.14, and 399.25, as modified by this section.

(e) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation with 60,000 or fewer customer accounts in California that either serves retail end-use customers outside California, or that is located in a control area that is not under the operational control of the Independent System Operator and receives the majority of its electrical requirements from generating facilities located outside of California, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation.

~~SEC. 21.~~

SEC. 22. Section 399.18 is added to the Public Utilities Code, to read:

399.18. The commission, in consultation with the Energy Commission, shall report to the Legislature by January 1 of every even-numbered year on all of the following:

1 (a) The progress and status of procurement activities by each
2 retail seller.

3 (b) The status of permitting and siting eligible renewable energy
4 resources and transmission facilities necessary to deliver the
5 electricity generated to load, including the time taken to permit
6 each eligible renewable energy resource and transmission line or
7 upgrade, explanations of failures to meet permitting milestones,
8 and recommendations for improvements to expedite permitting
9 and siting processes.

10 (c) The projected ability of each electrical corporation to meet
11 the renewables portfolio standard procurement requirements under
12 the cost limitations in subdivision (d) of Section 399.15 and any
13 recommendations for revisions of those cost limitations.

14 (d) Any barriers to, and policy recommendations for, achieving
15 the renewables portfolio standard pursuant to this article.

16 ~~SEC. 22.~~

17 *SEC. 23.* Section 399.26 is added to the Public Utilities Code,
18 to read:

19 399.26. (a) In order for the state to meet the requirements of
20 the California Renewables Portfolio Standard Program,
21 substantially increased amounts of electricity generated by eligible
22 renewable energy resources must be integrated with, and
23 interconnected to, the transmission grid that is either owned by,
24 or under the operational control of, the local publicly owned
25 electric utilities and the transmission grid that is under the
26 operational control of the Independent System Operator.

27 (b) The Independent System Operator and the balancing
28 authority of each area in California shall do both of the following:

29 (1) Work cooperatively to integrate and interconnect eligible
30 renewable energy resources to the transmission grid by the most
31 efficient means possible with the goal of minimizing the impact
32 and cost of new transmission needed to meet both reliability needs
33 and the renewables portfolio standard procurement requirements.

34 (2) Accomplish the requirements of paragraph (1) in a manner
35 that respects the ownership, business, and dispatch models for
36 transmission facilities owned by electrical corporations, local
37 publicly owned electric utilities, joint powers agencies, and
38 merchant transmission companies.

1 (c) The Independent System Operator shall seek any approvals
2 from the Federal Energy Regulatory Commission that are necessary
3 to accomplish the goals and requirements of this article.

4 (d) In order to maintain electric service reliability and to
5 minimize the construction of fossil fuel electrical generation
6 capacity to support the integration of intermittent renewable
7 electrical generation into the electrical grid, by July 1, 2011, the
8 Energy Commission shall update its previously conducted studies
9 to determine the effective load carrying capacity of wind and solar
10 energy resources on the California electrical grid. The commission
11 shall use those effective load carrying capacity values in
12 establishing the contribution of wind and solar energy resources
13 toward meeting the resource adequacy requirements established
14 pursuant to Section 380.

15 ~~SEC. 23.~~

16 *SEC. 24.* Section 399.30 is added to the Public Utilities Code,
17 to read:

18 399.30. (a) In order to fulfill unmet long-term generation
19 resource needs, each local publicly owned electric utility shall
20 adopt and implement a renewable energy resources procurement
21 plan that requires the utility to procure a minimum quantity of
22 electricity generated by eligible renewable energy resources,
23 including renewable energy credits, as a specified percentage of
24 total kilowatthours sold to the utility's retail end-use customers,
25 each calendar year, to achieve the targets of subdivision (b).

26 (b) The governing board shall implement procurement targets
27 for a local publicly owned electric utility that require the utility to
28 procure the following minimum percentages of eligible renewable
29 energy resources in the following years, and continue to procure
30 those percentages in subsequent years:

31 (1) Until December 31, 2012, the same percentage as actually
32 achieved by the utility in 2009.

33 (2) Twenty percent by December 31, 2013.

34 (3) Twenty-five percent by December 31, 2016.

35 (4) Thirty-three percent by December 31, 2020.

36 (c) (1) A local publicly owned electric utility ~~may use renewable~~
37 ~~energy credits associated with electricity generated, but not~~
38 ~~necessarily delivered by, an eligible renewable energy resource,~~
39 ~~to meet its renewables portfolio standard procurement requirements~~
40 ~~to the same extent as permitted for a retail seller pursuant to~~

1 ~~subdivision (a) of Section 399.21. shall be subject to the~~
2 ~~procurement limitations in Section 399.16 to the same extent as a~~
3 ~~retail seller.~~

4 (2) A local publicly owned electric utility may adopt rules
5 permitting the utility to apply excess procurement in one year to
6 subsequent years in the same manner as allowed for retail sellers
7 pursuant to Section 399.13.

8 (d) The governing board of the local publicly owned electric
9 utility shall adopt a program for the enforcement of this article on
10 or before January 1, 2011. The program shall be adopted at a
11 publicly noticed meeting offering all interested parties an
12 opportunity to comment. Not less than 30 days' notice shall be
13 given to the public of any meeting held for purposes of adopting
14 the program. Not less than 10 days' notice shall be given to the
15 public before any meeting is held to make a substantive change to
16 the program.

17 (e) (1) Each local publicly owned electric utility shall annually
18 post notice, in accordance with Chapter 9 (commencing with
19 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
20 Code, whenever its governing body will deliberate in public on its
21 renewable energy resources procurement plan.

22 (2) Contemporaneous with the posting of the notice of a public
23 meeting to consider the renewable energy resources procurement
24 plan, the local publicly owned electric utility shall notify the
25 Energy Commission of the date, time, and location of the meeting
26 in order to enable the Energy Commission to post the information
27 on its Internet Web site. This requirement is satisfied if the local
28 publicly owned electric utility provides the uniform resource
29 locator (URL) that links to this information.

30 (3) Upon distribution to its governing body of information
31 related to its renewable energy resources procurement status and
32 future plans, for its consideration at a noticed public meeting, the
33 local publicly owned electric utility shall make that information
34 available to the public and shall provide the Energy Commission
35 with an electronic copy of the documents for posting on the Energy
36 Commission's Internet Web site. This requirement is satisfied if
37 the local publicly owned electric utility provides the uniform
38 resource locator (URL) that links to the documents or information
39 regarding other manners of access to the documents.

(f) A local publicly owned electric utility shall annually submit to the Energy Commission documentation regarding eligible renewable energy resources procurement contracts that it executed during the prior year, as follows:

(1) A description of the eligible renewable energy resource, including the duration of the contract or electricity purchase agreement.

(2) A description and identification of the electrical generating facility providing the eligible renewable energy resource under the contract.

(3) An estimate of the percentage increase in the utility's total retail sales of electricity from eligible renewable energy resources that will result from the contract.

(g) A public utility district that receives all of its electricity pursuant to a preference right adopted and authorized by the United States Congress pursuant to Section 4 of the Trinity River Division Act of August 12, 1955 (Public Law 84-386) shall be in compliance with the renewable energy procurement requirements of this article.

(h) For a local publicly owned electric utility that was in existence on or before January 1, 2009, that provides retail electric service to 15,000 or fewer customer accounts in California, and is interconnected to a balancing authority located outside this state but within the WECC, an eligible renewable energy resource includes a facility that is located outside California that is connected to the WECC transmission system, if all of the following conditions are met:

(1) The electricity generated by the facility is procured by the local publicly owned electric utility, is delivered to the balancing authority area in which the local publicly owned electric utility is located, and is not used to fulfill renewable energy procurement requirements of other states.

(2) The local publicly owned electric utility participates in, and complies with, the accounting system administered by the Energy Commission pursuant to Article 4.

(3) The Energy Commission verifies that the electricity generated by the facility is eligible to meet the renewables portfolio standard procurement requirements.

(i) Notwithstanding subdivision (a), for a local publicly owned electric utility that is a joint powers authority of districts that furnish electric services other than to residential customers, and

1 is formed pursuant to the Irrigation District Law (Division 11
2 (commencing with Section 20500) of the Water Code), the
3 percentage of total kilowatthours sold to the district's retail end-use
4 customers, upon which the renewables portfolio standard
5 procurement requirements in subdivision (b) are calculated, shall
6 be based on the average retail sales over the previous three years.

7 (j) A local publicly owned electric utility in a city and county
8 that only receives greater than 67 percent of its electricity sources
9 from hydroelectric generation located within the state that it owns
10 and operates, and that does not meet the definition of a "renewable
11 electrical generation facility" pursuant to Section 25741 of the
12 Public Resources Code, shall be required to procure eligible
13 renewable energy resources, including renewable energy credits,
14 to meet only the electricity demands unsatisfied by its hydroelectric
15 generation in any given year, in order to satisfy its renewable
16 energy procurement requirements.

17 (k) Each local publicly owned electric utility shall report, on an
18 annual basis, to its customers and to the Energy Commission, all
19 of the following:

20 (1) Expenditures of public goods funds collected pursuant to
21 Section 385 for eligible renewable energy resource development.
22 Reports shall contain a description of programs, expenditures, and
23 expected or actual results.

24 (2) The resource mix used to serve its customers by energy
25 source.

26 (3) The utility's status in implementing a renewables portfolio
27 standard pursuant to subdivision (a) and the utility's progress
28 toward attaining the standard following implementation.

29 (l) A local publicly owned electric utility shall retain discretion
30 over all of the following:

31 (1) The mix of eligible renewable energy resources procured
32 or owned by the utility and those additional generation resources
33 procured or owned by the utility for purposes of ensuring resource
34 adequacy and reliability.

35 (2) The prices paid by the utility for electricity generated by
36 eligible renewable energy resources.

37 (3) The reasonable costs incurred by the utility for eligible
38 renewable energy resources owned by the utility.

39 (m) On or before July 1, 2011, the Energy Commission shall
40 adopt regulations specifying procedures for enforcement of this

1 article. The regulations shall include a public process under which
2 the Energy Commission may issue a notice of violation and
3 correction against a local publicly owned electric utility for failure
4 to comply with this article, and for referral of violations to the
5 State Air Resources Board for penalties pursuant to subdivision
6 (n).

7 (n) (1) Upon a determination by the Energy Commission that
8 a local publicly owned electric utility has failed to comply with
9 this article, the Energy Commission shall refer the failure to comply
10 with this article to the State Air Resources Board which may
11 impose penalties to enforce this article consistent with Part 6
12 (commencing with Section 38580) of Division 25.5 of the Health
13 and Safety Code.

14 (2) For the purpose of this subdivision, this section is an
15 emissions reduction measure pursuant to Section 38580 of the
16 Health and Safety Code.

17 (3) If the State Air Resources Board has imposed a penalty upon
18 a local publicly owned electric utility for the utility's failure to
19 comply with this article, the State Air Resources Board shall not
20 impose an additional penalty for the same infraction, or the same
21 failure to comply, with any renewables procurement requirement
22 imposed upon the utility pursuant to the California Global Warming
23 Solutions Act of 2006 (Division 25.5 (commencing with Section
24 38500) of the Health and Safety Code).

25 (o) The commission has no authority or jurisdiction to enforce
26 any of the requirements of this article on a local publicly owned
27 electric utility.

28 ~~SEC. 24.~~

29 *SEC. 25.* Section 399.31 is added to the Public Utilities Code,
30 to read:

31 399.31. A retail seller may procure renewable energy credits
32 associated with deliveries of electricity by an eligible renewable
33 energy resource to a local publicly owned electric utility, for
34 purposes of compliance with the renewables portfolio standard
35 requirements, if both of the following conditions are met:

36 (a) The local publicly owned electric utility has adopted and
37 implemented a renewable energy resources procurement plan that
38 complies with the renewables portfolio standard adopted by the
39 Energy Commission pursuant to subdivision (f) of Section 399.25.

1 (b) The local publicly owned electric utility is procuring
2 sufficient eligible renewable energy resources to satisfy the target
3 standard, and will not fail to satisfy the target standard in the event
4 that the renewable energy credit is sold to the retail seller.

5 ~~SEC. 25.~~

6 *SEC. 26.* Section 454.5 of the Public Utilities Code is amended
7 to read:

8 454.5. (a) The commission shall specify the allocation of
9 electricity, including quantity, characteristics, and duration of
10 electricity delivery, that the Department of Water Resources shall
11 provide under its power purchase agreements to the customers of
12 each electrical corporation, which shall be reflected in the electrical
13 corporation's proposed procurement plan. Each electrical
14 corporation shall file a proposed procurement plan with the
15 commission not later than 60 days after the commission specifies
16 the allocation of electricity. The proposed procurement plan shall
17 specify the date that the electrical corporation intends to resume
18 procurement of electricity for its retail customers, consistent with
19 its obligation to serve. After the commission's adoption of a
20 procurement plan, the commission shall allow not less than 60
21 days before the electrical corporation resumes procurement
22 pursuant to this section.

23 (b) An electrical corporation's proposed procurement plan shall
24 include, but not be limited to, all of the following:

25 (1) An assessment of the price risk associated with the electrical
26 corporation's portfolio, including any utility-retained generation,
27 existing power purchase and exchange contracts, and proposed
28 contracts or purchases under which an electrical corporation will
29 procure electricity, electricity demand reductions, and
30 electricity-related products and the remaining open position to be
31 served by spot market transactions.

32 (2) A definition of each electricity product, electricity-related
33 product, and procurement related financial product, including
34 support and justification for the product type and amount to be
35 procured under the plan.

36 (3) The duration of the plan.

37 (4) The duration, timing, and range of quantities of each product
38 to be procured.

39 (5) A competitive procurement process under which the
40 electrical corporation may request bids for procurement-related

1 services, including the format and criteria of that procurement
2 process.

3 (6) An incentive mechanism, if any incentive mechanism is
4 proposed, including the type of transactions to be covered by that
5 mechanism, their respective procurement benchmarks, and other
6 parameters needed to determine the sharing of risks and benefits.

7 (7) The upfront standards and criteria by which the acceptability
8 and eligibility for rate recovery of a proposed procurement
9 transaction will be known by the electrical corporation prior to
10 execution of the transaction. This shall include an expedited
11 approval process for the commission's review of proposed contracts
12 and subsequent approval or rejection thereof. The electrical
13 corporation shall propose alternative procurement choices in the
14 event a contract is rejected.

15 (8) Procedures for updating the procurement plan.

16 (9) A showing that the procurement plan will achieve the
17 following:

18 (A) The electrical corporation shall, in order to fulfill its unmet
19 resource needs, procure resources from eligible renewable energy
20 resources in an amount sufficient to meet its procurement
21 requirements pursuant to the California Renewables Portfolio
22 Standard Program (Article 16 (commencing with Section 399.11)
23 of Chapter 2.3).

24 (B) The electrical corporation will create or maintain a
25 diversified procurement portfolio consisting of both short-term
26 and long-term electricity and electricity-related and demand
27 reduction products.

28 (C) The electrical corporation will first meet its unmet resource
29 needs through all available energy efficiency and demand reduction
30 resources that are cost effective, reliable, and feasible.

31 (10) The electrical corporation's risk management policy,
32 strategy, and practices, including specific measures of price
33 stability.

34 (11) A plan to achieve appropriate increases in diversity of
35 ownership and diversity of fuel supply of nonutility electrical
36 generation.

37 (12) A mechanism for recovery of reasonable administrative
38 costs related to procurement in the generation component of rates.

39 (c) The commission shall review and accept, modify, or reject
40 each electrical corporation's procurement plan. The commission's

1 review shall consider each electrical corporation's individual
2 procurement situation, and shall give strong consideration to that
3 situation in determining which one or more of the features set forth
4 in this subdivision shall apply to that electrical corporation. A
5 procurement plan approved by the commission shall contain one
6 or more of the following features, provided that the commission
7 may not approve a feature or mechanism for an electrical
8 corporation if it finds that the feature or mechanism would impair
9 the restoration of an electrical corporation's creditworthiness or
10 would lead to a deterioration of an electrical corporation's
11 creditworthiness:

12 (1) A competitive procurement process under which the
13 electrical corporation may request bids for procurement-related
14 services. The commission shall specify the format of that
15 procurement process, as well as criteria to ensure that the auction
16 process is open and adequately subscribed. Any purchases made
17 in compliance with the commission-authorized process shall be
18 recovered in the generation component of rates.

19 (2) An incentive mechanism that establishes a procurement
20 benchmark or benchmarks and authorizes the electrical corporation
21 to procure from the market, subject to comparing the electrical
22 corporation's performance to the commission-authorized
23 benchmark or benchmarks. The incentive mechanism shall be
24 clear, achievable, and contain quantifiable objectives and standards.
25 The incentive mechanism shall contain balanced risk and reward
26 incentives that limit the risk and reward of an electrical corporation.

27 (3) Upfront achievable standards and criteria by which the
28 acceptability and eligibility for rate recovery of a proposed
29 procurement transaction will be known by the electrical corporation
30 prior to the execution of the bilateral contract for the transaction.
31 The commission shall provide for expedited review and either
32 approve or reject the individual contracts submitted by the electrical
33 corporation to ensure compliance with its procurement plan. To
34 the extent the commission rejects a proposed contract pursuant to
35 this criteria, the commission shall designate alternative procurement
36 choices obtained in the procurement plan that will be recoverable
37 for ratemaking purposes.

38 (d) A procurement plan approved by the commission shall
39 accomplish each of the following objectives:

1 (1) Enable the electrical corporation to fulfill its obligation to
2 serve its customers at just and reasonable rates.

3 (2) Eliminate the need for after-the-fact reasonableness reviews
4 of an electrical corporation's actions in compliance with an
5 approved procurement plan, including resulting electricity
6 procurement contracts, practices, and related expenses. However,
7 the commission may establish a regulatory process to verify and
8 ensure that each contract was administered in accordance with the
9 terms of the contract, and contract disputes which may arise are
10 reasonably resolved.

11 (3) Ensure timely recovery of prospective procurement costs
12 incurred pursuant to an approved procurement plan. The
13 commission shall establish rates based on forecasts of procurement
14 costs adopted by the commission, actual procurement costs
15 incurred, or combination thereof, as determined by the commission.
16 The commission shall establish power procurement balancing
17 accounts to track the differences between recorded revenues and
18 costs incurred pursuant to an approved procurement plan. The
19 commission shall review the power procurement balancing
20 accounts, not less than semiannually, and shall adjust rates or order
21 refunds, as necessary, to promptly amortize a balancing account,
22 according to a schedule determined by the commission. Until
23 January 1, 2006, the commission shall ensure that any
24 overcollection or undercollection in the power procurement
25 balancing account does not exceed 5 percent of the electrical
26 corporation's actual recorded generation revenues for the prior
27 calendar year excluding revenues collected for the Department of
28 Water Resources. The commission shall determine the schedule
29 for amortizing the overcollection or undercollection in the
30 balancing account to ensure that the 5 percent threshold is not
31 exceeded. After January 1, 2006, this adjustment shall occur when
32 deemed appropriate by the commission consistent with the
33 objectives of this section.

34 (4) Moderate the price risk associated with serving its retail
35 customers, including the price risk embedded in its long-term
36 supply contracts, by authorizing an electrical corporation to enter
37 into financial and other electricity-related product contracts.

38 (5) Provide for just and reasonable rates, with an appropriate
39 balancing of price stability and price level in the electrical
40 corporation's procurement plan.

1 (e) The commission shall provide for the periodic review and
2 prospective modification of an electrical corporation's procurement
3 plan.

4 (f) The commission may engage an independent consultant or
5 advisory service to evaluate risk management and strategy. The
6 reasonable costs of any consultant or advisory service is a
7 reimbursable expense and eligible for funding pursuant to Section
8 631.

9 (g) The commission shall adopt appropriate procedures to ensure
10 the confidentiality of any market sensitive information submitted
11 in an electrical corporation's proposed procurement plan or
12 resulting from or related to its approved procurement plan,
13 including, but not limited to, proposed or executed power purchase
14 agreements, data request responses, or consultant reports, or any
15 combination, provided that the Office of Ratepayer Advocates and
16 other consumer groups that are nonmarket participants shall be
17 provided access to this information under confidentiality
18 procedures authorized by the commission.

19 (h) Nothing in this section alters, modifies, or amends the
20 commission's oversight of affiliate transactions under its rules and
21 decisions or the commission's existing authority to investigate and
22 penalize an electrical corporation's alleged fraudulent activities,
23 or to disallow costs incurred as a result of gross incompetence,
24 fraud, abuse, or similar grounds. Nothing in this section expands,
25 modifies, or limits the State Energy Resources Conservation and
26 Development Commission's existing authority and responsibilities
27 as set forth in Sections 25216, 25216.5, and 25323 of the Public
28 Resources Code.

29 (i) An electrical corporation that serves less than 500,000 electric
30 retail customers within the state may file with the commission a
31 request for exemption from this section, which the commission
32 shall grant upon a showing of good cause.

33 (j) (1) Prior to its approval pursuant to Section 851 of any
34 divestiture of generation assets owned by an electrical corporation
35 on or after the date of enactment of the act adding this section, the
36 commission shall determine the impact of the proposed divestiture
37 on the electrical corporation's procurement rates and shall approve
38 a divestiture only to the extent it finds, taking into account the
39 effect of the divestiture on procurement rates, that the divestiture
40 is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

~~SEC. 26.~~

SEC. 27. Article 11 (commencing with Section 910) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 11. Reports

910. (a) The commission shall, on an annual basis by February 1 of each year, prepare and submit to the policy and fiscal committees of the Legislature a written report summarizing the following information:

(1) All electrical corporation revenue requirement increases associated with meeting the renewables portfolio standard, as defined in Section 399.12, including direct procurement costs for eligible renewable energy resources and renewable energy credits, administrative expenses for procurement, expenses incurred to ensure a reliable supply of electricity, and expenses for upgrades to the electrical transmission and distribution grid necessary to the delivery of electricity from eligible renewable energy resources to load.

(2) All cost savings experienced, or costs avoided, by electrical corporations as a result of meeting the renewables portfolio standard.

(3) All costs incurred by electrical corporations for incentives for distributed and renewable generation, including the self-generation incentive program, the California Solar Initiative, and net energy metering.

(4) All cost savings experienced, or costs avoided, by electrical corporations as a result of incentives for distributed and renewable generation.

1 (5) All renewable, fossil fuel, and nuclear procurement costs,
2 research, study, or pilot program costs, or other program costs for
3 which an electrical corporation is seeking recovery in rates, that
4 is pending determination or approval by the commission.

5 (6) The decision number for each decision of the commission
6 of recovery in rates of costs incurred by an electrical corporation
7 since the preceding report.

8 (7) Any change in the electrical load serviced by an electrical
9 corporation since the preceding report.

10 (b) The commission may combine the information required by
11 this section with the reports prepared pursuant to Article 16
12 (commencing with Section 399.11) of Chapter 2.3.

13 ~~SEC. 27.~~

14 *SEC. 28.* Section 1005.1 is added to the Public Utilities Code,
15 to read:

16 1005.1. (a) The commission shall issue a decision on an
17 application for a certificate within 18 months of the date of filing
18 of the completed application, when all of the following are true:

19 (1) The application is for a certificate for building or upgrading
20 an electrical transmission line that the commission finds necessary
21 to provide transmission to load centers for electricity generated in
22 a high priority renewable energy zone or is reasonably necessary
23 to facilitate achievement of the renewables portfolio standard
24 established in Article 16 (commencing with Section 399.11) of
25 Chapter 2.3.

26 (2) The commission has considered all of the following:

27 (A) The utilization of rights-of-way by upgrading existing
28 transmission facilities instead of building new transmission
29 facilities, where technically and economically justifiable.

30 (B) The expansion of existing rights-of-way, if technically and
31 economically feasible, when construction of new transmission
32 lines is required.

33 (C) The creation of new rights-of-way when justified by
34 environmental, technical, and economic reasons.

35 (D) The availability of cost-effective alternatives to transmission,
36 such as energy efficiency measures and distributed generation.

37 (3) The commission has not expressly found any of the
38 following:

39 (A) That the investment is not reasonable and necessary to
40 maintain or enhance reliability of the transmission grid.

1 (B) That the building or upgrading of the electrical transmission
2 line will not maintain or enhance efficient use of the transmission
3 grid.

4 (C) That the transmission line fails to meet other applicable
5 standards and requirements for approval and construction.

6 (b) An extension of time may be granted by the commission if
7 it finds the extension is necessary for completion of review
8 pursuant to the California Environmental Quality Act (Division
9 13 (commencing with Section 21000) of the Public Resources
10 Code).

11 ~~SEC. 28.~~

12 *SEC. 29.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 certain costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

21 With respect to certain other costs, no reimbursement is required
22 by this act pursuant to Section 6 of Article XIII B of the California
23 Constitution because a local agency or school district has the
24 authority to levy service charges, fees, or assessments sufficient
25 to pay for the program or level of service mandated by this act,
26 within the meaning of Section 17556 of the Government Code.

27 ~~SEC. 29.~~

28 *SEC. 30.* The sum of three hundred twenty-two thousand dollars
29 (\$322,000) is hereby appropriated from the Public Utilities
30 Commission Utilities Reimbursement Account to the Public
31 Utilities Commission for additional staffing to identify, review,
32 and approve transmission lines reasonably necessary or appropriate
33 to facilitate achievement of the renewables portfolio standard
34 established in Article 16 (commencing with Section 399.11) of
35 Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.